

Appl. No. 09/307,485
Amdt. dated June 7, 2004
Reply to Office Action of May 7, 2004

PATENT

REMARKS/ARGUMENTS

Amendments

The claims are modified in the amendment. More specifically, claim 27 has been amended; claims 1-4 and 16-26 have been withdrawn; and new claims 28-34 have been added. Therefore, claims 5-15 and 27-34 are present for examination. No new matter is added by these amendments. Applicant respectfully requests reconsideration of this application as amended.

Interview

On May 9, 2004, the Examiner granted an interview to discuss the outstanding Office Action with firm partner Darin Gibby. Granting of interviews is always appreciated. No final agreement was reached, but this response is believed to address the Examiner's concerns expressed in the interview.

Restriction Requirement After Final

The Office Action finalizes the restriction requirement and withdraws Group I claims 1-4 and 16-26 in favor of Group II claims 5-15 and 27. The timing of this restriction requirement is perplexing. Applicants note that 37 CFR §1.142(a) makes clear restrictions should be made before issuance of any final office action. At the time this restriction requirement was originally issued, there had been a final office action, an appeal and another non-final office action. Indeed, the whole restriction practice is premised on an assumption that the claims are valid, which is contrary to a case where the claims have stood rejected. "This assumption, of course, is not continued after . . . the question of patentability of the several claims in view of the prior art is taken up." MPEP; Original 8th Edition August 2001, Latest Revision February 2003; §806.02. Should amended claim 27 not be found allowable, Applicants respectfully request removal of the restriction requirement and consideration of the Group I claims.

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35 U.S.C. §112 Rejection, First Paragraph

Claims 5 through 10 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants note that this concept is fully supported in the application as filed. More specifically, attention is directed to page 6, last full paragraph, second to last sentence, of the application. Withdrawal of this rejection is respectfully requested.

35 U.S.C. §103 Rejection, Novogrod in view of Shkedy

The Office Action has rejected claims 5-15 and 27 under 35 U.S.C. §103(a) as being unpatentable over the cited portions of U.S. Patent No. 6,367,693 to Novogrod (hereinafter "Novogrod") in view of the cited portions of U.S. Patent No. 6,260,024 to Shkedy (hereinafter "Shkedy"). Without going into great detail, Applicant points out the following problems with the rejection. Many limitations are not taught or suggested in cited references. More specifically, the following limitations are missing:

(1) Awarding a bid to a *buyer*. There is no cite for this proposition in the Office Action. Applicant notes that Shkedy awards bids to the seller (col. 6, line 29).

(2) Specific information triggering printing. The Office Action apparently relies upon Official Notice for this specific information (see Office Action, page 4, last paragraph). Applicants cannot determine how information provided by Official Notice could trigger printing. A showing of documentary proof is hereby requested for this apparent Official Notice.

(3) A hyperlink from the auction site to the money order site. No cite in Novogrod is given for this limitation.

(4) Sending a message when a money order is sent. Novogrod is cited for this proposition, but Shkedy is cited for sending the money order. Logic would dictate that Novogrod cannot know about the money order in Shkedy.

(5) Physically delivering the money order. Shkedy only teaches "communication" with an offline method like postal mail and not delivery of the money order. Col. 6, lines 64-67.

Beyond the missing limitations, there are problems with the motivation to combine in the Office Action. No reference is cited for the motive such that Applicants can only

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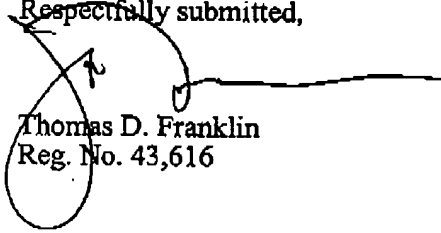
presume Official Notice is relied upon. Should this rejection be maintained, Applicants respectfully traverse this Official Notice and hereby request an express showing of documentary proof of the motivation to combine proposition as set forth in MPEP 2144.03.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is urged. Reconsideration of the claims in their current form is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


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